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Personnel

**ANCILLARY TRAINING - UNIFORM CODE OF
MILITARY JUSTICE (UCMJ) TRAINING**

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This pamphlet implements Air Force Policy Directive (AFPD) 36-22, *Military Training*, the Uniform Code of Military Justice (UCMJ), the Manual for Courts-Martial (MCM), and AFPD 51-2, *Administration of Military Justice*. It provides guidance for administering military justice. This pamphlet fulfills the annual requirement to conduct the UCMJ Training. It applies to all individuals assigned to the 446th Air-lift Wing (446 AW).

SUMMARY OF REVISIONS

This revision indicates that if performing an UTA, the UCMJ only applies during the hours of the UTA period (para 2.); changes the maximum penalty for Special Courts-martial to include hard labor without confinement for three months; changes the confinement and forfeiture of pay from six months to one year (para 5.4.1.). A bar (|) indicates new or revised material since the previous edition.

1. Prescribing Directive. AF Instruction (AFI) 51-201, *Administration of Military Justice*.

2. Jurisdiction. The UCMJ does not apply to civilians or reservists in their civilian status. However, the UCMJ jurisdiction does apply when a reservist is in military status, either on a Unit Training Assembly (UTA) or while on active duty orders. When on active duty orders, the UCMJ jurisdiction applies for the entire period covered by the orders. If performing an UTA, the UCMJ only applies during the hours of the UTA period.

3. Administrative Actions:

3.1. Misconduct committed in a civilian status or involving conduct, which is not a violation of criminal law, is handled through administrative action. The commander and/or supervisor, depending on the proposed action to be taken, have several options available depending on the severity of the conduct. Generally the matter should be addressed with the least severe response considered adequate to correct the behavior, taking into consideration the offense, the person and their past record.

3.2. Verbal Counseling. This is the least severe administrative action. It is normally used to deal with minor problems and consists of the supervisor and/or commander notifying the individual of the conduct in question and requesting that the matter be corrected.

3.3. Letter of Reprimand (LOR). This is similar to a verbal counseling but is reduced to a written document. A letter of reprimand is generally used when verbal counseling has failed to correct the situation and/or the conduct warrants a written record. The military member has 30 days to make an oral or written response to the LOR.

3.4. Demotion. Demotion is a more serious response to address situations such as failure to fulfill NCO responsibilities, failure to perform, failure to keep fit, unsatisfactory participation and/or other reasons specified in AFI 36-2503, *Administrative Demotion of Airmen*.

3.4.1. Usually demotion is used to respond to a pattern of conduct which has not been corrected by less severe means.

3.4.2. The member is entitled to consult with a military defense counsel or civilian counsel (at their expense) and respond to the proposed demotion.

3.5. Involuntary Discharge. This is the most severe administrative action and is used when all other actions have failed to correct the deficiency or a single incident is serious enough to warrant a discharge. AFI 36-3209, *Separation and Retirement Procedures for Air National Guard and Air Force Reserve Members*, specifies the process to be followed as well as the basis for discharge.

3.5.1. Common basis for discharge includes:

3.5.1.1. Unsatisfactory participation,

3.5.1.2. Misconduct,

3.5.1.3. Substandard performance, and

3.5.1.4. Physical disqualification as well as others stated in the instruction.

3.5.2. Members are served with a letter stating the reason for discharge and the recommended service characterization. They then have the opportunity to consult with military defense counsel or civilian counsel (at their expense) and respond to the proposed discharge action.

3.5.3. Depending on the member's length of service, basis for discharge or recommended service characterization the member may be entitled to a board hearing.

4. ARTICLE 15, NONJUDICIAL PROCEEDING. Article 15 proceedings are based upon Article 15 of the UCMJ. The underlying misconduct must be criminal and in violation of the UCMJ.

4.1. The Article 15 process is used for the more minor criminal offenses.

4.2. The member's commander, after reviewing the evidence and consulting counsel, serves a notice of intent to proceed under Article 15.

4.3. The member then has the right to consult counsel and decide whether to have the commander evaluate the case or request a trial by courts-martial.

4.4. If the member elects to accept the Article 15 process, they have the right to make a personal appearance before the commander as well as present any other evidence, written or oral, they would like the commander to consider before making a decision.

4.5. The member may also appeal the commander's decision, but only as to punishment, to the commander's commander.

5. COURTS-MARTIAL:

5.1. The accused has the right to military counsel and/or civilian counsel at their own expense. The accused may elect to be tried by judge alone or by other military members. Once the selection of judge and/or jury has been made, the judge and/or jury will decide guilt or innocence as well as what the sentence will be.

5.2. Enlisted members may request that enlisted members compose at least one third of the jury.

5.3. Conviction at courts-martial results in a federal conviction. The possible penalties can include:

5.3.1. Confinement,

5.3.2. Bad conduct discharge,

5.3.3. Dishonorable discharge,

5.3.4. Dismissal (officers only),

5.3.5. Forfeiture of pay, and/or

5.3.6. Reduction in rank (enlisted only).

5.4. There is no distinction between misdemeanors and felonies under the UCMJ. The type of Courts-martial as well as the alleged offense determines the maximum penalty.

5.4.1. The maximum penalty at Special Courts-martial is limited to one-year confinement, hard labor without confinement for three months, a bad conduct discharge, reduction to E-1 and forfeiture of 2/3 pay and allowances for up to one year.

5.4.2. The maximum penalty at a General Courts-martial is the stated maximum for that particular offense.

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